



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Via Email Only

March 14, 2014

Senator Joseph Crisco
Representative Robert Megna
Insurance & Real Estate Committee Chairmen
Legislative Office Building, Rm. 2800
Hartford, CT 06106

**Re: Additional Testimony For the Record on H.B. 5502: AN ACT CONCERNING
CHANGES TO THE PROPERTY AND CASUALTY INSURANCE STATUTES.**

Dear Senator Crisco and Representative Megna:

Thank you for opportunity to provide testimony on H.B. 5502 at the Insurance Committee's public hearing on March 11, 2014. I respectfully submit to you this letter for the Committee record on H.B. 5502. First, there was a question of whether the Insurance Department (the "Department") was over-stepping its authority by issuing the *Filing Review Guidelines Related to Underwriting Coastal Homeowners Insurance Policies* (the "Coastal Guidelines") that were referred to as a Department Bulletin during the hearing. The Coastal Guidelines were first issued in 2007 and later amended to address changing conditions following several significant weather events in the State. I believe we addressed this during our testimony; however, I would like be on record with some additional information regarding this question.

Under section 38a-689 of the Connecticut General Statutes, all insurers writing homeowners insurance are required to file their Coastal Guidelines with the Department. After we issued our Coastal Availability Report in 2006, the Department issued its first set of Coastal Guidelines outlining the Department's expectations on what the industry could or could not do with respect to the use of deductibles or shutters. The Department had the authority to do this under our Underwriting Rules and Regulations statute identified above. At no time following the issuance of the Department's Coastal Guidelines did the legislature seek to limit or otherwise restrict the Department's use of the Coastal Guidelines that are used to manage coastal homeowners' insurance availability.


Furthermore, we do not believe the Coastal Guidelines published in 2007 or subsequent Coastal Guidelines issued thereafter were in violation of section 38a-316a. (a), effective July 1, 2007. It is the Department's opinion that there is a clear distinction between having shutters permanently affixed to a structure versus an insurer requiring an insured have plywood readily available on their property in the event the insured needs to install it in preparation for an approaching hurricane or significant tropical storm. As I stated at the hearing, the Department still does not

believe that simply removing the word "permanent" from the statute would result in the change that appears to be intended with the proposed legislation. We believe the bill as it is currently worded does not properly set forth the legislative intent if that intent is to prohibit an insurer from imposing on an insured any requirement to have any form of shutters for mitigation (including plywood). The legislation should clearly state that no shutter requirement is allowed to be imposed by an insurer if that is, in fact, the intent rather than amending one word in the current statute since it could be subject to differing interpretations. We believe as this bill is presently worded, it could still allow an insurer to require an insured to have plywood on hand as a condition to writing the business, however, in the event of a loss and the shutters were not installed the insurer cannot cancel or nonrenew solely on that basis. Please see the attached analysis done by my examiner. The Department would again like to reiterate that we are opposed to not allowing insurers to require some form of mitigation within 2600 feet of the coast. I might also add that Senator Looney's testimony last night implied that requiring someone to have shutters on hand would be permissible which is in line with our current Coastal Guidelines.

Secondly, at the Public Hearing, a statement was made that no other state allows companies to impose a shutter requirement as Connecticut does. Contrary to that statement, in 2012 the Department participated in a survey with other NAIC Northeast Zone states and based on that survey, learned that New Jersey, Maryland, and Rhode Island do allow industry to use mitigation however, if the insured does mitigate, those states require (by statute) that the insurer either lower or eliminate the hurricane/wind deductible. Other states in the northeast indicated at that time that they were not aware what industry was doing with respect to shutter requirements as they did not require insurers to file their underwriting guidelines with their insurance regulators. Connecticut is the only state that does require insurers to file their underwriting guidelines, thus the reason why we have better knowledge of what industry is doing in Connecticut. We have also advocated similar laws that require reduction of hurricane deductibles when an insured does take on serious (and sometimes fairly costly) mitigation efforts.

Lastly, a comment was made that the industry, "based on our guidelines", could technically require homeowners throughout the state to have shutters. Contrary to that statement, our Coastal Guidelines specifically state that an insurer can only require shutters (and pre-cut, pre-drilled plywood being acceptable) for new business only on homeowners located within 2600 feet of the coast. For homeowners over 2600 feet from the coast and only within designated coastal towns as determined by the Department based on factual industry data, the insurer can offer to the insured the option (and this is of the Insured's choosing) of a hurricane deductible or non-permanent shutters. Again this applies to new business only and it is the consumer's choice, not the insurer's choice.

Thank you for the opportunity to provide to you, the Committee and the citizens of Connecticut this additional information. Should you or any of the Committee members have additional questions, comments or concerns regarding this legislation please feel free to contact me directly.


George B. Bradner, Director
Property & Casualty Division

Insurance Department Examiner's Analysis of HB 5502

As written, this bill allows companies the flexibility to craft their guidelines very specifically and to their advantage when it comes to plywood shutters. Although companies will be prohibited from taking underwriting action solely for failing to install plywood shutters, it does not prohibit them from taking action against the customer based on the insured's refusal to have plywood shutters on hand. Failing to install plywood is triggered at the time of the loss, not at the time the business is written unlike permanent shutters which would be required to be affixed at the beginning of a policy period and could be verified by the company before writing the policy. This distinction of failing to install at the time of loss has already been realized and used by companies in filings reviewed by the Department. If the intent of the law is to fully prohibit a company from taking underwriting action due to a consumer not wanting to purchase and use shutters of any nature, this draft not only misses that intent, it creates an ambiguity for companies to capitalize on and will require the Department to address the distinction in the future. The draft should be revised (or the bill killed) to address the fact that failure to install means different things depending on the type of shutter and the timing of when they are affixed to the structure.

Draft Bill

No insurer that delivers, issues for delivery, renews, amends or endorses a homeowners insurance policy in this state shall refuse to renew or issue such a policy solely on the basis that the insured or prospective insured has failed to install [permanent] storm shutters on his or her residential dwelling as a means of mitigating loss from hurricanes or other severe storms. (emphasis added).

Definition of Install

To place or fix (equipment or machinery) in position ready for use

- Permanent shutters are placed and fixed in position and ready for use at all times.
- Plywood shutters are placed and fixed in position prior to a loss but typically after the policy period begins and just prior to the storm arriving.

Particularly for new business declinations, this protection from adverse underwriting doesn't make sense as regards plywood shutters, unless a loss occurred with the prior carrier and the new company finds out that the plywood wasn't installed before the loss. In those cases, the law states a company cannot decline or cancel.

If the intent of the new law is to remove a shutter requirement in CT, this draft does not address it properly.

This draft law states, in its literal sense, that a company cannot take underwriting action on a policy when shutters are not installed. Installation of plywood will not occur until just prior to the loss. However, this draft does not prohibit a company from taking

underwriting action if the insured refuses to purchase and store plywood on hand. If a company were to file as unacceptable, coastal risks where insured has failed to purchase plywood, what will be the Department's position?

Current Company Underwriting Requirements

Companies require and inspect to confirm that:

1. Plywood is on hand in a dry location
2. Labeled by window
3. Anchorage hardware is attached to dwelling

Based on this draft bill, will companies continue to be able to take adverse underwriting action if these requirements are not met? These requirements are separate and distinct from failing to install plywood shutters.

The Department has already reviewed filings where companies have tried to capitalize on the distinct difference between having plywood on hand and failing to install the plywood. Below are 2 examples.

- If the plywood was not installed at the time of the loss, coverage is denied for the loss.- Department disapproved
- If the plywood is not installed, the hurricane deductible applies. (Risks over 2600 feet where the insured was given the option of mitigation or a deductible) - Department accepted